

REMARKS

This Response is submitted in response to the Final Office Action dated November 18, 2003, having a shortened statutory period set to expire February 18, 2004, and further in response to the Advisory Action dated January 8, 2004. Applicants respectfully request reconsideration of the final rejection in view of the arguments below and the attached affidavit as such materially reduces issues on appeal.

I. Claim Status

Claims 6-7, 13-14, and 20-21 are pending.

II. Claim Rejections -- 35 U.S.C. § 103

On page 3 of the present Office Action, Claims 6-7, 13-14, and 20-21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Internet Explorer 4. That rejection is respectfully traversed and reconsideration of the claims is requested.

Applicant believes that the claims in the present application are not rendered unpatentable by Internet Explorer 4 under 35 U.S.C. § 103 because that reference does not teach or suggest one or more features recited in the claims herein. For example, Internet Explorer 4 does not teach or suggest the following feature recited in claim 6 as amended in Amendment B:

setting access controls for at least two of the communications programs within the data processing system that employ different communications protocols as a function of the content label categories and associated user restrictions.

The Examiner argues that this element is shown by Internet Explorer 4 in combination with Microsoft Chat. However, neither the reference provided by the Examiner in the Final Office Action ("Internet Explorer 4 for Windows for Dummies"), the screen shots provided within the Final Office Action, the Internet Content Rating Association web site cited by the Examiner in form PTO-892 provided with the Advisory Action, nor any of the screen shots provided within the Advisory Action makes any teaching or suggestion that the "Content Advisor" functionality of Internet Explorer 4 applies in any manner to Microsoft Chat. The Examiner has not presented any evidence that Microsoft Chat was subject to any content filter

functionality whatsoever, let alone that Internet Explorer 4 provided any such content filter functionality to Microsoft Chat. Further, the Examiner's evidence does not pre-date the present invention.

A. Setting Access Controls For Two Communication Programs Is Not Shown

Applicants shall assume that content-specific filtering is enabled within the HTTP engine of the Internet Explorer browser, but Applicants specifically dispute the Examiner's assertion that such content-specific filtering is performed in any manner to filter data transferred to/from the Microsoft Chat program. The showing of a suggestion, teaching or motivation to combine the prior art references must derive from clear and particular evidence. "This showing must be clear and particular, and broad conclusory statements about the teaching of multiple references, standing alone, are not 'evidence.'" *Brown & Williamson Tobacco Corp. v. Phillip Morris, Inc.*, 229 F.3d 1120, 56 USPQ2d 1456 (Fed. Cir. 2000), citing *In re Dembiczak*, 175 F.3d at 1050 USPQ2d at 1617).

As argued by the Examiner in the Advisory Action filed on January 8, 2004:

Before having a chat in the Internet by using Microsoft Chat as a communication program, the user has to be on the Web site that homes the chat room. Based on the setup of Internet Explorer and the rating level of the web site that homes the chat room, a chat by using Microsoft Chat could be restricted as discussed in the Office Action.

Applicants respectfully traverse the Examiner's position. Microsoft Chat is a separate executable communications' program that operates using Internet Relay Chat Protocol to independently connect to chat servers through the Internet and does not use web pages to gain access to the chat servers.

Microsoft Chat is a separate executable program that was bundled as part of the package delivered with Internet Explorer 4.0. These are two independent applications that are in no way integrated or part of the same software application, and use totally independent communication protocols to communicate. As explained in the Microsoft Chat README document that accompanies a distribution of Microsoft Chat (a copy of which has been cited by Applicant in the enclosed IDS), Microsoft Chat connects directly to chat servers utilizing the IRC protocol and

not through a web site.

At the top of page 2 of the Microsoft Chat README Document (IDS Ref. No. E), the steps for connecting to a chat room are described. In step #1, it is explained that Microsoft Chat is an application program that is executed by running the program from the "Start" button. In step #2, a connection dialog box provided by Microsoft Chat permits the IRC server name and Chat room box to be input for connecting to a Chat room on the server.

Moreover, as explained at the bottom of page 1 of the "Microsoft Chat Guide," (IDS Ref. No. C), also provided in the enclosed IDS, Microsoft Chat uses the Internet Relay Chat (IRC) protocol, and "Note that this is not the same system as AOL Chat, or MSN Chat, or a chat you use inside of a web page!." Access to these servers is direct using their Uniform Resource Locator (URL) address, and not using HyperText Transfer Protocol (HTTP) via web pages of the World Wide Web.

As will be appreciated, these references clearly teach that Microsoft Chat is a separate executable communications' program that operates to independently connect to chat servers through the Internet and to provide chat functionality to the user. Microsoft Chat does not use "http" web pages to gain access to the chat servers.

The Examiner argues in the Final and Advisory Actions that, because Internet Explorer's Content Advisor provides for a rating selection on "Chat" through the ICRA rating system, the Content Advisor functionality also filters access to Microsoft Chat. There is no evidence to support this conclusion.

Content Advisor uses a labeling system whereby the HTML content advisory tags within a specific URL web page include tags about sex, violence and chat. However, this labeling system only operates to notify filtering software when a particular web site provides chat functionality within the HTTP web page. It is clear that the Chat label within the ICRA rating system is implemented within Content Advisor to provide filtering functionality to web pages accessed by the web browser having Web-based Chats. The "Chat" label is in no way used or

capable of filtering Internet Relay Chat protocol servers. Web-based Chat and IRC Chat are different technologies. (See IDS reference F, "Accessibility of Online Chat Programs" for definitions of IRC and Web-based Chats.)

Access to the World Wide Web is provided through a separate and distinct communications' program called a web browser – for example, Microsoft's Internet Explorer and Netscape's Web Browser, which use HTTP to provide communications. Microsoft Chat is an independent software application that uses the Internet Relay Chat Protocol. There is nothing within the prior art to suggest that Internet Explorer 4 somehow extends its Content Advisor functionality to the separate and distinct Microsoft Chat program.

B. ICRA Does Not Constitute Prior Art

The ICRA was created after the invention by the Applicants, and therefore does not constitute prior art for purposes of patentability. As shown within the press release by Internet Content Rating Association dated 13 December 2000 (provided as Reference A in the enclosed IDS), ICRA did not launch its rating system until December 2000, months after the April filing date in the present application. As further explained on the Project Interconnect web site (provided as IDS Reference B), ICRA is an independent non-profit organization established in the spring of 1999, and their rating system was not launched until 2000. To remove any doubt, submitted herewith is a declaration by the Applicants hereof providing evidence that the present invention was invented at least as early as December 30, 1999. The attached declaration is unsigned; a signed declaration will be provided to you no later than the expiration of three months from the date of the Final Office Action, or February 18, 2004. Therefore, ICRA does not constitute prior art and does not support the rejection of claims 6-7, 13-14, and 20-21 under 35 U.S.C. § 103(a).

C. Summary

For the reasons given above, Applicants respectfully request reconsideration of the rejection of claims 6-7, 13-14, and 20-21 because the prior art does not disclose or suggest *"setting access controls for at least two of the communication programs within the data processing system that employ different communication protocols as function of the content label*

categories and associated user restrictions” as recited in exemplary claim 6. As Applicants have shown above, there is absolutely no evidence that the Content Advisor functionality of Internet Explorer 4 in any mode or manner provides filtering functionality to the separate and distinct software application Microsoft Chat.

In summary, the current rejection should be reconsidered for two reasons. First, as has been explained, the “Chat” labeling category of Content Advisor provides a capability to filter Web-based Chats performed on HTML web pages. Such Web-based Chats are typically Java-coded applications resident within an HTML web page using HTTP for communications and not the IRC protocol. Therefore, the Content Advisor in Internet Explorer 4 in no way provides a filtering function for the Microsoft Chat program. Second, the ICRA does not constitute prior art and cannot support a rejection under Section 103 because it was not created prior to the present invention. Consequently, Applicants believe that the rejection of claims 6-7, 13-14, and 20-21 in view of Internet Explorer 4 is overcome. Applicants submit that all pending claims are in condition for allowance and respectfully request such allowance.

It is believed that no fee is required by this amendment; however, in the event any additional fees are required, please charge any such fee to **IBM Corporation Deposit Account Number 09-0447**.

Respectfully submitted,



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